

**CONTRA COSTA COUNTY  
DEPARTMENT OF AGRICULTURE  
ENFORCEMENT WORK PLAN FOR FY 2010/2013**

Revised 11/30/09

## **I. Resources**

### **A. County Resources**

- Challenges facing Contra Costa County this fiscal year will be the continued trapping and mapping of Light Brown Apple Moth (LBAM) and the planned eradication of this A-rated pest. Pesticide work hours are expected to decrease, as staff normally assigned to Pesticide Use Enforcement (PUE) will continue to monitor existing traps and place new traps in previously non-trapped areas for the purpose of delimiting the area of the county where LBAM has become established. Half of the county is now considered to be infested with LBAM. Aerial spraying in Richmond, San Pablo and El Cerrito, which was scheduled for the Spring of 2009, has been abandoned due to public objection. The new method of eradication involves the placement of pheromone twist ties. The PUE staff will be called upon to respond to public concern about the material being dispensed.
- Beginning in 2009, the PUE unit has acquired the additional responsibility of Japanese dodder eradication, red sesbania eradication and sudden oak death detection activities. Contra Costa County currently has 46 sites where Japanese dodder has been detected and removed. These sites are monitored monthly to check for reinfestation of this A-rated parasitic weed. We have identified six sites in the county that are infested with red sesbania. Abatement notices will be served to land owners and removal of this Q-rated noxious weed are planned for late 2009 and early 2010. Sudden oak death monitoring of production nurseries and green waste facilities are conducted each Spring. These additional work activities will continue to occupy the time of county staff that previously devoted the majority of their time to PUE activities.
- Contra Costa County has hired an Integrated Pest Management (IPM) Coordinator to review existing pest control practices and implement its IPM policy. This will drain PUE staff hours as current pest control operations will continue to be evaluated and pesticide use records are requested as part of this process. Currently, three of the PUE staff serve on the IPM advisory committee and are expected to spend significant time on development of the IPM Ordinance and the development of semi-annual IPM reports to the county's Water, Transportation and Infrastructure Committee. The department is also expected to attend meetings and respond to concerns from the county's Public Environmental and Health Advisory Board (PEHAB) on IPM issues.
- For fiscal year 2009/2010 there will be three full time and one half time staff members in the main office dedicating the majority of their time to PUE. This represents one less full time person than the Concord

pesticide unit has had historically. This is the result of a rotation in county personnel to fill vacated positions in the department's pest exclusion unit. An overall decrease in productivity for the unit as a whole (when compared to the previous fiscal year) is expected, as we will be operating with one less staff member.

The number of business records inspections and headquarter/employee safety inspections remains fairly constant from year to year as our department policy is to register all home based pest control companies in person at their place of business with a few exceptions. These exceptions include businesses with no fixed storage and no employees. Staff members from other units are called upon in the beginning of the calendar year to achieve this goal.

The PUE deputy tracks the numbers of inspections completed by staff monthly. Goal numbers for the various types of inspections have been established based on goals from previous years' work plans and historic totals (**See attachment 1**). We anticipate a reduction of 20% in the total number of inspections based on the staffing changes discussed in the first paragraph.

- The Knightsen branch office has three full time and one part time staff that will all spend approximately 50% of their time performing PUE. The branch office is located in that portion of the county where the majority of agricultural production occurs. This is the area where most of the aerial pesticide applications take place. The PUE duties there involve a large number of early morning monitoring inspections of pesticide applications to agricultural crops as well as responding to the concerns of an increasing residential population, as development continues to bring homes closer to the county's farmland.
- Contra Costa County has purchased and uses the Restricted Materials Management System (RMMS) permit system and has access to digital aerial photographs, which it uses to generate maps where pesticides will be applied.

## **II. Core Program Activities**

### **A. Restricted Material Permitting**

1. **Site Monitoring:** We have identified a number of sensitive and highly sensitive sites in the eastern portion of the county where 100% of the aerial pesticide applications are monitored by our department. The majority of these sites are production agriculture fields that are adjacent or near residential development. The monitoring of these fields serves to protect the public health,

For non-agricultural permits, it is our policy to issue a restricted materials permit on-site at the time of application to ensure that a monitoring inspection is performed on each pest control company requesting a permit. If the application is performed to our satisfaction, the notice of intent (NOI) requirement is waived for non-agricultural uses for the remainder of the calendar year. NOI requirements are never waived for non-agricultural restricted materials applications at school sites.

2. **Hazard Evaluation:** Issuance of RMPs for agricultural use operations is performed at the annual headquarters and records inspection. It is at this time that maps of proposed application sites are reviewed. New and existing potential for hazards are reviewed and discussed. A discussion of mitigation measures takes place between the staff biologist and the permit applicant. These measures typically include, but are not limited to: the establishment of a “buffer zone” where restricted materials are not to be applied; alternative pest control practices; the application of reduced risk pesticides; advance notification to neighboring properties; and permit conditions to mitigate potential hazard. The supervising deputy reviews all permits and inspections before they are logged and filed.

Any non-compliances encountered with record keeping or pest control equipment are corrected at the site or a follow-up inspection is scheduled. Training documents are reviewed for completeness and the biologist may make suggestions.

Permits are not issued unless the applicator has met all of his legal responsibilities and the biologist is confident that all reasonable precautions have been explored and implemented.

3. **Permit Guidance:** All department personnel who issue restricted materials permits have passed state licenses in both Pesticide Regulation and Investigation and Environmental Monitoring. Senior biologist trains new staff by accompanying them on monitoring and

Headquarters inspections. Newly trained staff do not issue permits or conduct inspections until both they and their trainers are satisfied with their knowledge and performance.

Prior to the new permit issuance season, a staff meeting is held for the purpose of training new and experienced biologists. The meeting includes a review of existing policies and practices, newly passed legislation and regulations, areas of non-compliance encountered during the past year and other current PUE issues. Training of the RMMS permit system is on going for all staff as upgrades are installed and workshops and discussion groups are scheduled routinely.

The registration of the "Fruit Doctor" compressed sulfur dioxide gas as a federally restricted material in September 2008 necessitates that wineries comply with regulations regarding the purchase and use of this product. Wineries will need an Operator ID and a certified applicator. The department is currently assessing the needs of local wineries to comply with the change in status of this product. The county is expecting a number of new wineries to begin wine production in the coming year.

#### **Areas of Needed Improvement:**

Maps that accompany RMPs could be improved. We now have access to aerial photographs of the entire county. In addition to providing an image of the exact parcel of land to be sprayed, these photographs will visually identify environmentally sensitive sites adjacent to proposed treatment areas. Buffer zones and other delineated areas can be drawn as an overlay on these photographs. We can also add road names, identify landmarks and include other text, as we deem appropriate.

Denial of restricted material use requests could be better documented. We often suggest better alternative methods of pest control to homeowners and small agricultural operations. The existing permit denial form could be updated to more accurately describe our justification for refusing to grant a RMP.

Many staff members need to become more proficient at querying the RMMS databases. Our office receives numerous requests for grower, crop and pesticide application information. These assignments have historically been given to those individuals who already possess strong computer skills, leaving less experienced personnel with little opportunity to improve in this area. As label and regulation changes frequently occur midyear in a permit

season, it sometimes becomes necessary to contact permit holders and amend permit conditions, reevaluate sites for environmental sensitivities or advise on best pest management practices.

## **B. Compliance Monitoring**

1. **Priority Investigations:** Contra Costa County adheres to the guidelines set forth by The Department of Pesticide Regulation (DPR) in both content and timeliness in conducting and completing priority investigations. Contact with the county's Enforcement Branch Liaison (EBL) is made as soon as a priority investigation is identified. The EBL is consulted as to the most appropriate course of action to take in a particular episode. Communication is on going throughout the investigation and requests for information and resources are made directly to the EBL.

All staff that completes priority investigations has received DPR training in episode investigation, investigative sampling techniques and report writing. Completed reports are reviewed by the supervising deputy and the agricultural commissioner.

2. **Routine Investigations/Complaints:** Routine investigations are made as expediently as county resources allow. Targeted completion dates are consistently met and reports are thorough. The supervising Deputy Agricultural Commissioner reviews all completed investigations. A county list of Doctor's First Report of Occupational Injury or Illness is received monthly by the PUE deputy and reviewed for adherence to report submission deadlines.

Complaints and inquires that do not involve the potential for a health or environmental hazard are logged on the "Non Illness Pesticide Complaint Log".

3. **Inspections:** The department has internal goals for the various inspection categories. These goals are set with a careful review of the current pest control activities occurring in the county, the number of non-compliances encountered in recent inspections, the potential for hazard with a particular kind of pesticide application, the current emphasis DPR assigns to a particular kind of pesticide application, the current workload in other programs the department performs and the resources at our disposal.

An individual biologist's completed inspections are reviewed and tabulated weekly by his/her supervising Deputy Agricultural Commissioner.

### **Areas of Needed Improvement:**

The PUE staff has struggled with the writing and timely submission of Decision Reports when non-compliances are encountered on routine inspections. Training by DPR on writing these reports has been conducted and a system for their timely submission is being developed.

Timely re-inspections of previously documented non-compliances continue to be a scheduling problem for inspection staff. Encouraging inspectors to perform an immediate follow-up on the applicator's next scheduled stop may be a way to complete these required re-inspections.

Staff needs to be encouraged to conduct more field worker inspections as numbers are down from previous year's totals. The number of field worker inspection goals will be reduced due to the closure of Colorspot Nursery in Richmond.

### **C. Enforcement Response**

1. **Violation History Tracking:** Inspections where non-compliances are encountered automatically generate a follow-up inspection unless the non-compliance is minor and can be corrected at the time of inspection. Biologists schedule their own follow-up inspections, but all required follow-up inspections are tabulated by the supervising Deputy Agricultural Commissioner. Periodic review is performed by the supervisor to ensure that follow-up inspections are completed in a reasonable amount of time.

The supervising deputy may prioritize certain types of inspections with the PUE staff. Efforts are made to target inspections where a higher than average number of non-compliances are being encountered. These efforts may include surveillance in particular areas of the county where certain pesticide applications occur, unannounced return visits to agricultural fields where violations were encountered, and after hour or weekend monitoring of pesticide applications.

We have a number of tools at our disposal to address non-compliances encountered during inspections. These include compliance interviews, letters of warning, violation notices and civil penalties. We recently met with our county's assistant district attorney to discuss the possibility of referring cases to their office when our resources are insufficient to levy an appropriate punitive response to a violation of agricultural law.

Substantial violations or repeats of minor violations are reviewed at the office by the inspector. After review of the applicator's compliance history, the inspector asks for a meeting of the Enforcement Action Team (EAT). The EAT consists of the inspecting biologist, the supervising Deputy Agricultural Commissioner and a permanently designated senior biologist. Together, the three members of EAT discuss the violation and the appropriate enforcement response to take against the violator. The permanently designated senior biologist exists to bring consistency between the two offices and ensure similar punitive response. A unanimous decision is not a requirement, and in fact, the team is composed of an odd number of members to ensure that a decision is made. DPR's Enforcement Response Regulations (ERRs) are consulted and followed during the course of the EAT meetings.

Organized notes are taken during EAT meetings which state the recommendation of the team. These notes serve as a decision report for the action the team recommends. An area of improvement identified for FY 2010/2013 is to complete the Decision Report form which documents the key elements of the violation and identifies the facts and reasoning used to come to the resulting decision. Any deviations from the DPR ERR will be discussed in the body of the report.

When the decision is made to levy a civil penalty against the violator, the Supervising Deputy Agricultural Commissioner presents the decision to the Agricultural Commissioner for his approval. The Notice of Proposed Action (NOPA) is written by the inspecting biologist and reviewed and approved by the supervisor before being given to the commissioner for his signature.

### **Areas of Needed Improvement**

All PUE staff have received training on the ERR and are gaining a comfort level at applying the new regulations. We need to start completing the decision report at our EAT meetings as a way of documenting our enforcement decisions. There are also staff members that need more experience in writing NOPAs.

The submission of Decision Reports needs to be more timely and NOPAs need to be submitted to the EBL when they are delivered to the respondent.



### **III. Desirable Activities**

#### **A. Pesticide Handler and Fieldworker Training Sessions**

The department is fortunate to have two Spanish-speaking staff members. They conduct several training classes to agricultural workers in both Brentwood and Richmond. They train between 300 and 400 pesticide handlers and fieldworkers each year. These training classes are multi-media presentations that are updated annually and have been very well received by the agricultural community. These classes help the agricultural community by partially satisfying the training requirements for employees in crop production settings. Many local growers lack the resources to provide adequate training for their employees whose work assignments may require them to enter treated fields.

The department spends approximately 80 man-hours of time on this activity annually.

#### **B. Contra Costa County IPM Advisory Committee**

The Department of Agriculture has four staff members that sit on the county's IPM Advisory Committee. Meetings are held bi-monthly and are open to all interested parties. In addition to site visits and outreach activities, the committee tracks the internal pest control activities of the county and any outside vendors the county employs. All county sites will require an IPM approach to pest control, which is conducted by the structural pest control company that the county hires. The department is also involved in the interviewing process of these businesses. An annual report is presented to the Board of Supervisors in December of each year. The ultimate goal of the IPM Advisory Committee is to establish long-term suppression of pests and reduce the amount of pesticide risk to county employees and the public.

The department spends approximately 60 to 80 man-hours of time on this activity annually.

#### **C. Continuing Education Class for Private Applicator Certificate Holders**

Each winter, the Knightsen branch office conducts training classes for growers who need to acquire continuing education hours for the renewal of their private applicator certificates. Typically, two classes are given on evenings or weekends and feature presentations by the CAC staff on regulatory issues. Guest speakers are also invited such

as the local farm advisor who gives updates on research being performed by the University of California Cooperative Extension. These classes are well received by the agricultural community and provide an excellent forum for the discussion of new agricultural techniques that decrease pest pressure and reduce the need for pesticide applications.

The department spends approximately 120 man-hours of time on the preparation and presentation of these classes annually.